

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



PA 11-110—HB 6284

*Banks Committee*

**AN ACT CONCERNING REVISIONS TO THE BANKING STATUTES  
TO REFLECT CHANGES MADE PURSUANT TO THE DODD-FRANK  
WALL STREET REFORM AND CONSUMER PROTECTION ACT**

**SUMMARY:** This act adds references to the federal Bureau of Consumer Financial Protection to various provisions of the banking laws and Uniform Commercial Code, as well as certain other sections of the general statutes concerning consumer credit transactions. For example, it specifies that the bureau is a supervisory agency for purposes of the banking laws. The addition of these references reflects the transfer of consumer financial protection functions from several federal entities to the bureau, which took place on July 21, 2011 (the act's effective date). The bureau was created as part of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (see BACKGROUND).

The act also allows the banking commissioner to exempt any person or class of people from registration requirements and related provisions of the Uniform Securities Act, upon finding that the exemption is in the public interest and consistent with investor protection and that act. Among other things, the Uniform Securities Act requires certain categories of investment professionals to register with the banking commissioner.

The act also makes technical and conforming changes.

EFFECTIVE DATE: July 21, 2011

REFERENCES TO BUREAU OF CONSUMER FINANCIAL PROTECTION

*§ 1 — Supervisory Agency in Banking Statutes*

The act adds the bureau to the list of entities defined as “supervisory agencies” for purposes of the banking statutes. The list of supervisory agencies already includes the state banking commissioner and various federal entities. By law, the banking commissioner may enter into agreements with other supervisory agencies regarding the examination or supervision of specified entities that are regulated by the banking statutes.

*§§ 3, 4 — Mortgage Loan Originators*

Existing law includes within the definition of mortgage loan originator someone who only renegotiates terms for existing mortgages and does not otherwise act as an originator but whom the U.S. Department of Housing and Urban Development (HUD) or a court determines needs to be licensed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act). The act adds to this someone whom the bureau determines needs to be licensed under the S.A.F.E. Act. It also makes conforming changes.

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PA 11-216 (§ 8), effective October 1, 2011, adds the requirement that the person renegotiating terms for existing mortgages does so on a mortgagee's behalf.

### *§§ 5-8 — Consumer Credit Protection Act and Truth in Lending Act*

The act provides that in specified provisions of the banking law (including the Connecticut truth-in-lending act and provisions concerning finance companies and retail installment sales financing) and specified laws regarding errors in retail credit account statements, unless the context requires otherwise, the federal Consumer Credit Protection Act (CCPA) includes regulations adopted by the bureau under that act. The law already specifies that for these purposes, the CCPA includes regulations adopted by the Federal Reserve under the federal act.

The truth-in-lending act provides criminal penalties (up to a year's imprisonment, up to a \$5,000 fine, or both) for anyone who willfully and knowingly uses a chart or table authorized by the Federal Reserve under the CCPA (§ 107) in a manner that consistently understates a loan's annual percentage rate determined under specified banking laws. This act extends the same penalties to anyone who does this using a chart or table authorized by the bureau.

The truth-in-lending act provides that specified liability provisions in it do not apply to acts or omissions made in good faith in conformity with the truth-in-lending act or certain other laws or determinations, including (1) the Federal Reserve's rules or regulations adopted under the CCPA or its interpretations of it or (2) interpretations or approvals by a duly authorized Federal Reserve official or employee, notwithstanding that after the act or omission has occurred, the law, rule, regulation, approval, or interpretation is amended, rescinded, or determined by a court or other authority to be invalid. This act adds to these provisions the bureau's rules, regulations, or interpretations, or the interpretations or approvals of its authorized officials or employees.

Under the truth-in-lending act, an obligor has no rescission rights arising solely from the form of written notice a creditor uses to inform the obligor of such rights under the act and the CCPA if the creditor provided the obligor the appropriate form of written notice published and adopted by the Federal Reserve, or a comparable written notice, that was properly completed by the creditor, and otherwise complied with other specified requirements. This act provides that an obligor similarly has no rescission rights if the creditor provided notice in the form published and adopted by the bureau and met the other requirements.

### *§ 9 — Credit Reports*

By law, a credit rating agency must disclose to a consumer the nature and substance of all information in its files about the consumer upon the consumer's written request and proper identification. This includes any credit score or predictor, as required by and in a form complying with the federal Fair Credit Reporting Act and commentary that the Federal Trade Commission adopts and enforces. The act adds to this the commentary adopted and enforced by the bureau.

*§ 10 — Home Mortgage Disclosure*

The act specifies that in the Connecticut home mortgage disclosure act, unless the context otherwise requires, the federal Home Mortgage Disclosure Act includes regulations promulgated by the bureau under that act. The law already specifies that for these purposes the federal act includes regulations adopted by the Federal Reserve. By law, unchanged by the act, the banking commissioner is the supervisory agency for purposes of the state home mortgage disclosure act.

*§§ 12, 13 — Consumer Leases*

The act specifies that in the state consumer leases act, the federal Consumer Leasing Act includes regulations issued by the bureau pursuant to the federal act. The law already refers to Federal Reserve regulations for this purpose.

Under the state consumer leases act, a lease holder is relieved from liability for statutory damages in certain circumstances. For example, a lease holder is not liable for damages concerning acts or omissions made in good faith conforming to the Federal Reserve's rules, regulations, or interpretations of the federal Consumer Leasing Act, even if after the act or omission occurred, the rule, interpretation, or approval was changed, rescinded, or held invalid by a court or other authority. This act adds to this the bureau's rules, regulations, or interpretations of the federal act.

*§§ 14-17 — Uniform Commercial Code (UCC)*

*Negotiable Instruments.* The law provides that in the UCC's provisions concerning negotiable instruments (e.g., checks), Federal Reserve regulations and operating circulars of federal reserve banks supersede any inconsistent provision to the extent of the inconsistency. The act provides that bureau regulations supersede any inconsistent provision in the same manner.

*Bank Deposits and Collections.* By law, the effect of the UCC's bank deposits and collections provisions may be varied by agreement. The parties to the agreement cannot disclaim a bank's responsibility, or limit the measure of damage, for the bank's lack of good faith or failure to exercise ordinary care. But the agreement may determine the standards to measure the bank's responsibility, unless they are manifestly unreasonable.

By law, Federal Reserve regulations and operating circulars (among other rules) have the effect of the above agreements, even if not specifically agreed to by all parties interested in items handled. The act specifies that bureau regulations and operating circulars have the same effect.

The act specifies that action or nonaction pursuant to bureau regulations or operating circulars constitutes the exercise of ordinary care. The law already provides the same for action or nonaction pursuant to Federal Reserve regulations or operating procedures, among others.

The act also changes the definition of "agreement for electronic presentment." Existing law defined this to include an agreement, clearinghouse rule, or Federal Reserve regulation or operating circular, providing that an item's presentment may be made by transmitting its image or information describing it rather than

delivering the item itself. The act adds bureau regulations or operating circulars to this list. By law, the agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to it.

*Fund Transfers.* The act specifies that bureau regulations supersede any inconsistent provision of the UCC's fund transfer provisions to the extent of the inconsistency. The law already provides the same for Federal Reserve regulations and operating circulars of the federal reserve banks.

#### § 18 — *Sexual Orientation Discrimination in Credit Transactions*

By law, it is a discriminatory practice for any creditor to discriminate on the basis of sexual orientation or civil union status against anyone age 18 or older in any credit transaction. But no liability may be imposed for an act done or omitted in conformity with a regulation or declaratory ruling of the banking commissioner, the Federal Reserve, or any other governmental agency having jurisdiction under the Equal Credit Opportunity Act, notwithstanding that after the act or omission the regulation or declaratory ruling is amended, repealed, or determined to be invalid. The act specifies that actions or omissions that conform to the bureau's regulations or declaratory rulings also preclude liability.

#### § 11 — EXEMPTION FROM UNIFORM SECURITIES ACT

Under the act, the banking commissioner can exempt any person or class of people from certain requirements of the Uniform Securities Act. To do so, he must find that the exemption is (1) in the public's interest and (2) consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Uniform Securities Act. The act specifies that the exemption may be by rule, regulation, or order, and may be conditional or unconditional.

Matters subject to the exemption include (1) registration requirements that apply to broker-dealers, agents, certain investment advisers, and investment adviser agents; (2) requirements that apply to issuers, broker-dealers, and investment advisers concerning the employment of agents; (3) requirements concerning branch offices, including registration, acquisition, and relocation of such offices; (4) required notice for broker-dealers or investment advisers who cease to transact business at a branch or main office; and (5) related matters.

#### BACKGROUND

##### *Dodd-Frank Act*

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act (P. L. 111-203, 124 Stat. 1376 (2010)) was signed into law on July 21, 2010. Among many other provisions, it created the Bureau of Consumer Financial Protection as a watchdog agency to oversee financial institutions and enforce compliance with consumer financial laws. The act also raised the threshold for federal regulation of investment advisers from \$25 million to \$100 million of assets under management, and created new categories of investment advisers who are exempt

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from federal registration.

### *Related Act*

PA 11-119 explicitly authorizes the attorney general to bring a civil action in a court of competent jurisdiction to enforce the provisions of the Dodd-Frank Act that the federal act authorizes state attorneys general to enforce. It also allows the attorney general to seek any relief that the Dodd-Frank Act authorizes state attorneys general to seek.

OLR Tracking: JO:KM:PF:ro